

REMARKS

Reconsideration and allowance are respectfully requested in light of the above amendments and the following remarks.

Claims 1, 2, 7 and 13 have been amended to replace the word "desencapsulated" with the word "decapsulated" as suggested in the Final Rejection to overcome the indefiniteness rejections applied to claims 1 and 2. The amendments are non-narrowing and no estoppel is deemed attachable thereto.

Claims 1-17 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 40-71 of co-pending application number 09/880,795. The Final Rejection proposes that the provisional obviousness-type double patenting rejections may be overcome by the filing of a terminal disclaimer for the present application (Office Action page 3, second paragraph).

However, the present application was filed on April 30, 2001, prior to the filing date of the co-pending '795 application, which was filed on June 22, 2001, and which does not claim the priority of another application. Therefore, the patent term of the present application, after its issuance, will likely end prior to that of a patent issuing from the '795 application. Accordingly, a terminal disclaimer is unnecessary to prevent the term of a patent issuing from the present application from

extending beyond the term of patent issuing from the '795 application.

Since the rejections applied to claims 1 and 2 have been overcome by the amendments to these claims, claims 1-17 are in condition for allowance. Therefore, withdrawal of the provisional obviousness-type double patenting rejections applied to claims 1-17 and allowance of claims 1-17 is warranted.

In view of the above, it is submitted that this application is in condition for allowance and a notice to that effect is respectfully solicited.

If any issues remain which may best be resolved through a telephone communication, the Examiner is requested to telephone the undersigned at the local Washington, D.C. telephone number listed below.

Respectfully submitted,

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JEL/DWW/att

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